FY 2013–14 Safe, Clean Water & Natural Flood Protection Special Tax Summary Report

SUMMARY:

Applicable laws and provisions of Resolution 12-62 require the District Chief Executive Officer to prepare a written report recommending the rates for the Safe, Clean Water and Natural Flood Protection Special Tax, which was approved by voters on November 6, 2012. The annual basic special tax unit (single family residential parcel) for fiscal year 2013-14 cannot exceed a maximum limit of $56. Rate limits in the following years as specified in the Safe, Clean Water ballot measure are indexed to the fiscal year 2013–14 rates plus an increase based on the San Francisco-Oakland-San Jose Consumer Price Index for all urban consumers in the preceding year (CPI) or 3 percent, whichever is greater. Staff recommend that the special tax rates for fiscal year 2013–14 be set at the level assumed in the development of the Safe, Clean Water program which would reflect a 3.00 percent increase versus fiscal year 2012-13.

The Group C Single Family Residential and Small Multiples (2-4 units) rate trend is summarized below:

Fiscal Year	Group C Rate	Annual % Increase
2001–02	$39.00	N/A
2002–03	$40.16	3.0%
2003–04	$41.36	3.0%
2004–05	$42.60	3.0%
2005–06	$43.88	3.0%
2006–07	$45.26	3.16%
2007–08	$46.76	3.32%
2008–09	$48.16	3.0%
2009–10	$49.61	3.0%
2010–11	$51.10	3.0%
2011–12	$52.64	3.0%
2012–13	$54.22	3.0%
2013–14 Proposed	$55.84	3.0%

STAFF ANALYSIS:

Introduction

This Summary Report is prepared in accordance with the voter-approved Santa Clara Valley Water District (District) Resolution 12-62. It presents the uniform rates for the special tax in the combined flood control zone to generate revenue for designated voter approved purposes.

The revenue generated by the special tax will be used to meet remaining Clean, Safe Creeks program commitments and to produce the following outcomes:

- Ensure a safe, reliable water supply.
- Reduce toxins, hazards and contaminants in our waterways.
- Protect our water supply from earthquakes and natural disasters.

- Restore wildlife habitat and provide open space.
- Provide Flood Protection to homes, businesses, schools and highways.

Attachment 3 of the Board Agenda Memo shows a further breakdown of the activities under each of the Safe, Clean Water program outcomes. This report has been reviewed and approved by District Counsel as meeting the requirements of applicable laws. Information on the special tax levy for an individual parcel as well as the detailed District report describing the purpose of the special tax: "Safe, Clean Water and Natural Flood Protection, July 24, 2012", are available for review through the Clerk of the Board at the District offices located at 5750 Almaden Expressway, San Jose, California.

Passage of Clean, Safe Creeks and Natural Flood Protection

The June 2000 sunset of benefit assessments for the District's flood protection program decreased revenue available to the District to provide additional flood protection capital improvements. Beginning in 1996, the District implemented a program to solicit community input, conduct needs assessments, and propose and refine a comprehensive plan to preserve the quality of life in Santa Clara County as it relates to water resources. The District evaluated available funding alternatives authorized by applicable laws, and determined that a uniform, special tax throughout the combined zone that overlays the District's five flood control zones was the appropriate funding mechanism for the adopted plan. The District placed the Clean, Safe Creeks and Natural Flood Protection measure on the November 7, 2000 ballot and received over the necessary two-thirds approval by the electorate voting.

In 2011, the District began an intensive outreach effort to reassess community priorities and formulate an updated program because the District could not continue to provide services that the community demanded beyond the sunset of the program in June, 2016. At that time, all of the many high priority projects under the 2000 measure had been completed or exceeded, or were on track to be completed or exceeded.

Passage of Safe, Clean Water and Natural Flood Protection

An 18-month period of public input and program refinement resulted in the Safe, Clean Water program, which includes new projects based on stakeholder input, as well as the continuation of important services provided by the old program. The Safe, Clean Water program received the necessary two-thirds approval by voters on November 6, 2012.

Under current authorization, the special tax is to be levied over a fixed term of fifteen years to achieve program outcomes. The program will be funded by a combination of debt financing and pay-as-you-go funding from annual revenues supplemented by reserves from unspent funds of the Clean, Safe Creeks plan, and state and federal funding. Approximately 23 percent of the Safe Clean Water capital program is anticipated to be funded through debt financing via the issuance of Certificates of Participation, which will help fund the capital projects early in the program, rather than waiting for reserves to build up. The District will track the revenues and expenses over the life of the special tax, and as the program progresses, the rates will be evaluated each year to determine what, if any, annual increase is needed.

General Rate Provisions

The special tax revenues to meet the projected costs of the program are based on an initial set of rates for fiscal year 2013–14 in which the residential rate was $55.84, or 3% higher than the prior year.

Future rate limits are indexed to the annual San Francisco-Oakland-San Jose Consumer Price Index for all urban users in the immediate preceding year (Bay Area Consumer Price Index) or 3

percent, whichever is greater. Should declaration of a state or federal disaster area by reason of flooding or other natural disaster occur, the maximum rates will be indexed to the Bay Area Consumer Price Index plus up to 4.5 percent for the three years following the disaster.

The special tax is levied on a parcel by parcel basis according to proportionate storm water runoff. Each assessment is computed by determining the area of a parcel (in acres or fractions thereof) and applicable land use category (as hereinafter defined) and then multiplying the area by the special tax rate applicable to land in such land use category. The land use categories are as follows:

Group A: Land used for commercial or industrial purposes

Group B: Land used for institutional purposes such as churches and schools or multiple dwellings in excess of four units, including apartment complexes, mobile home parks, recreational vehicle parks, condominiums and townhouses.

Group C: (1) Land used for single family residences and multiple family units up to four units. (2) The first 0.25 acre of a parcel of land used for single family residential purposes.

Group D: (1) Disturbed agricultural land, including irrigated land, orchards, dairies, field crops, golf courses and similar uses. (2) The portion of the land, if any, in excess of 0.25 acre of a parcel used for single family residential purposes.

Group E: Vacant undisturbed land (1) in urban areas; and (2) in rural areas including dry farmed land, grazing and pasture land, forest and brush land, salt ponds and small parcels used exclusively as well sites for commercial purposes.

Group F: Parcels used exclusively as well sites for residential uses are exempt from the special tax.

A minimum special tax is levied on each parcel of real property having a land area up to 0.25 acre for Groups A, B, and C, and up to 10 acres for Groups D and E Urban. For Group E Rural, the minimum Special Tax is as calculated for the E Urban category, but applies to parcels of 80 acres or less. A minimum special tax is also levied on condominiums and townhouses without regard to parcel size. Parcels owned by federal, state, or local agencies are exempt from this special tax.

Transition from Clean, Safe Creeks to Safe, Clean Water

Approximately $98 million in reserves are projected to be set aside at year end FY 2012–13 from unspent funds of the Clean, Safe Creeks program. Most of this accumulated amount is from set-aside revenue designated for capital project construction, and some is from cost savings. These funds will help construct and maintain the capital projects continued from the Clean, Safe Creeks plan. In FY 2013-14, capital spending is projected to continue on several projects carried forward from Clean, Safe Creeks that will provide flood protection including Berryessa Creek Project, Coyote Creek Project, Sunnyvale East and West Channel, San Francisquito Creek Project, Permanente Creek, Upper Guadalupe River and the Upper Llagas Creek Project.

2013–2014 Special Tax Rates

For FY 2013–14 it is proposed that the Safe, Clean Water and Natural Flood Protection Special Tax be levied at the staff recommended rate to generate $37.5 million to meet the program outcomes. Projected capital design and construction appropriations are $117.9 million. Projected operations, operating projects, and transfer appropriations are $13.4 million. The operating and capital reserve is projected to be $33.0 million by the end of FY 2013–14.

The proposed special tax rates at the rate limits are indicated below and reflect a 3.00% increase over last year's rates under the Clean, Safe Creeks Program:

Group A: Land used for commercial or industrial purposes: $446.91 per acre, $111.72 minimum for parcels up to 0.25 acre.

Group B: (1) apartment complexes, mobile home parks, recreational vehicle parks: $335.18 per acre, $83.80 minimum for parcels up to 0.25 acre; and (2) condominiums and townhouses: $27.18 per unit.

Group C: Parcels up to 0.25 acres used for single family residences and multiple family units up to four units: $55.84. The first 0.25-acre of a parcel of land used for single family residential purposes: $55.84.

Group D: (1) Disturbed agricultural land, including irrigated land, orchards, dairies, field crops, golf courses and similar uses: $2.86 per acre, $28.64 minimum on parcels less than 10 acres. (2) The portion of the parcel, if any, in excess of 0.25 acre of a parcel used for single family residential purposes: $2.86 per acre.

Group E: Vacant undisturbed land (1) in urban areas: $0.845 per acre, $8.44 minimum on parcels less than 10 acres; and (2) in rural areas: $0.115 per acre, $8.44 minimum equal to the Group E urban category minimum.

A summary comparing the current year rates with the proposed FY 2013–14 rates is shown in Figure 1.

FIGURE 1

Actual FY 2012–13 Versus Proposed FY 2013–14 Safe, Clean Water and Natural Flood Protection Special Tax Rates

Land Use Categories	Actual FY '12-'13	Proposed FY '13-14
A - Commercial, Industrial		
Rate ($/Acre)	$433.90	$446.91
Minimum Assessment (1)	$108.46	$111.72
B - Apartment, Schools, Churches, Condominiums & Townhouse		
Rate ($/Acre)	$325.42	$335.18
Minimum Assessment (1)	$81.36	$83.80
Condominiums & Townhouses ($/unit)	$26.40	$27.18
C - Single Family Residential, Small Multiples (2-4 units) (2)		
Minimum Assessment (1)	$54.22	$55.84
D - Utilized Agriculture(2)		
Rate ($/Acre)	$2.78	$2.86
Minimum Assessment (1)	$27.80	$28.64
E - Urban - Nonutilized Agricultural, Grazing Land, Salt Ponds, Well Site in Urban Areas		
Rate ($/Acre)	$0.820	$0.845
Minimum Assessment (1)	$8.20	$8.44
E - Rural - Nonutilized Agricultural, Grazing Land, Well Sites in Rural Areas		
Rate ($/Acre)	$0.111	$0.115
Minimum Assessment (1)	$8.20	$8.44

(1) The minimum assessments shown for Categories A, B, and C apply to parcels 1/4 acre or less in size. Category C parcels larger than 1/4 acre pay the minimum assessment for the first 1/4 acre and the remaining acreage is assessed at the Category D rate. For Category D, the minimum assessment applies to parcels less than 10 acres. The minimum assessment for Group E parcels is the amount charged for 10 acres of urban undeveloped land; the minimum assessment is the same for both the Urban Category and the Rural Category parcels, however the Rural Category applies to parcels of 80 acres or less.

(2) Residential land in excess of 1/4 acre is assessed at the "D" rate.

Senior Exemption

Legislation was passed in July 2001 to provide the District with the discretion to exempt low-income parcel owners over 65 from the special tax consistent with Resolution's 2000-44 and 12-62. The exemption program was put in place for FY 2001–02. To date in fiscal year 2012–13, 3,336 households have received the exemption, totaling approximately $170,855. Exemptions and refunds total approximately $2,271,318 to date since program inception.

Special Tax Levy Rolls and Collection

Applicable law provides that the special tax may be levied and collected by the County Tax Collector at the same time and in the same manner as the general tax levy. Following adoption of the special tax rates and receipt of updated assessor parcel data for fiscal year 2013–14, the District will prepare a Special Tax Roll identifying each parcel of land subject to the special tax and the associated tax amount. This information will be made available for review at the District through the Clerk of the Board. The Special Tax Roll showing parcel number and levy amount will be forwarded to the County Tax Collector in August 2013 to facilitate County collection of the special tax.

FINANCIAL IMPACT:

Setting the Safe, Clean Water and Natural Flood Protection special tax rates at staff recommended level for FY 2013–14 would provide adequate funding to meet operations, operating projects and transfer costs of $13.4 million, as well as a projected capital appropriation of approximately $117.9 million. Planned future expenditures reasonably indicate that the revenue raised next year will be spent according to the Safe, Clean Water and Natural Flood Protection report.